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Motor Company Group, LLC*

UNITED STATES DISTRICT COURT

FOR THE STATE OF NEVADA

BRENT ROERING and SHELLY ROERING,
husband and wife,

Plaintiffs,

vs.

HARLEY-DAVIDSON, INC., a Delaware
corporation; HARLEY-DAVIDSON, INC., a
Wisconsin corporation; HARLEY-DAVIDSON
MOTOR CO., INC., a Wisconsin corporation;
HARLEY-DAVIDSON MOTOR COMPANY
OPERATIONS, INC., a Wisconsin corporation;
HARLEY-DAVIDSON MOTOR COMPANY,
INC., a Wisconsin corporation; HARLEY-
DAVIDSON MOTOR COMPANY GROUP, LLC,
a Wisconsin limited liability company; GLIDE-
PRO, INC., a California corporation; SPIRIT
AMERICA, INC. dba True-Track aka True-Track,
Inc., a Wyoming corporation, and DOES 1-100,

Defendants.

CASE NO.:

**DEFENDANT HARLEY-
DAVIDSON MOTOR COMPANY
GROUP LLC'S PETITION FOR
REMOVAL**

Defendant Harley-Davidson Motor Company Group, LLC¹, ("Removing Defendant"), removes
this case to the United States District Court for the District of Nevada on the following grounds:

¹ Plaintiff has incorrectly named HARLEY-DAVIDSON, INC., a Delaware Corporation; HARLEY-DAVIDSON, INC., a Wisconsin corporation; HARLEY-DAVIDSON MOTOR CO., INC., a Wisconsin corporation; HARLEY-DAVIDSON MOTOR COMPANY OPERATIONS, INC., a Wisconsin corporation; and HARLEY-DAVIDSON MOTOR COMPANY, INC., a Wisconsin corporation. We will endeavor to dismiss these incorrectly named Harley-

I. INTRODUCTION

1. Plaintiffs Brent Roering and Shelly Roering allege that the named defendants designed, manufactured, assembled, marketed and/or otherwise placed in the stream of commerce a defective motorcycle and aftermarket products which proximately caused Plaintiffs' injuries. Plaintiffs allege negligence and strict liability-product liability against all Harley-Davidson Defendants; negligence and strict liability-product liability against Glide-Pro and True-Track; and loss of consortium and property damages against all Defendants. *See generally* Plaintiffs' Complaint ("Compl.").

2. On or about September 8, 2022, Plaintiffs filed a civil action against Removing Defendant and others in the First Judicial District Court, in and for Carson City, Nevada, captioned *Brent Roering and Shelly Roering, husband and wife, vs. Harley-Davidson, Inc., et al.*, Case no. 22TRT000451B (the "State Court Action").

3. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because the Removing Defendant has satisfied the procedural requirements for removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

II. THE REMOVING DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.

4. Plaintiffs filed their original Complaint on September 21, 2022. Plaintiffs served a copy of the Complaint and Summons on Removing Defendant on November 21, 2022. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it was filed within thirty (30) days after the Removing Defendant was first served with a pleading setting forth Plaintiffs' claim.

5. This action is properly removed to the United States District Court for the District of Nevada because it is the district and division embracing Carson City, Nevada, where the State Court Action is pending. 28 U.S.C. § 1441(a). No previous application has been made for the relief requested herein.

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Davidson entities, nevertheless the above Harley-Davidson entities are diverse and consent to this petition for removal.

1 6. Pursuant to 28 U.S.C. § 1446(a), accurate and complete copies of all the process,
2 pleadings, and orders served on the Removing Defendant and documents filed in the State Court
3 Action are attached hereto as **Exhibit 1**.

4 7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served
5 upon counsel for Plaintiffs and is to be filed with the Clerk of the First Judicial District Court,
6 Carson City, Nevada. A copy of the Notice of Removal being filed in state court is attached as
7 **Exhibit 2**.

8 8. Upon information and belief, co-defendants Glide-Pro, Inc., and Spirit American,
9 Inc. d/b/a True-Track a/k/a True-Track, Inc. have not been served as of the date of this filing and
10 therefore, consent is not required pursuant to 28 U.S.C. § 1446(b)(2)(A). When co-defendants are
11 served, the Removing Defendant will make every effort to seek their consent.

12 **III. REMOVAL IS PROPER PURSUANT TO 28 U.S.C. §§ 1332 AND 1441 BECAUSE**
13 **THE PARTIES ARE DIVERSE.**

14 9. Plaintiffs Brent and Shelly Roering allege that they are residents of Carson City,
15 Nevada. Compl. ¶ 1. Thus, the Removing Defendant is informed and believes that Plaintiffs are
16 citizens of Nevada.

17 10. The Removing Defendant is a Wisconsin limited liability company with its principal
18 place of business located at 3700 W. Juneau Ave. Milwaukee, Wisconsin 53208. Harley-Davidson
19 Motor Company Group, LLC's sole member and owner is Harley-Davidson, Inc. Harley-
20 Davidson, Inc. is a Wisconsin corporation with its principal place of business in Milwaukee,
21 Wisconsin. Thus, Removing Defendant is a citizen of Wisconsin. All other incorrectly named
22 Harley-Davidson entities are diverse.

23 11. Plaintiffs allege Spirit America, Inc. d/b/a True-Track, Inc. a/k/a True-Track ("True-
24 Track") is a Wyoming corporation with its principal place of business located in California. Thus,
25 the Removing Defendant is informed and believes that True-Track is a citizen of Wyoming and
26 California.

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12. Plaintiffs allege Glide-Pro, Inc. (“Glide-Pro”) is a California corporation with its principal place of business located in California. Thus, the Removing Defendant is informed and believes that Glide-Pro is a citizen of California.

13. Plaintiffs and the defendants are therefore completely diverse. This Court has jurisdiction over this action under 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441(b).

IV. REMOVAL IS PROPER PURSUANT TO 28 U.S.C. §§ 1332 AND 1441 BECAUSE THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED.

14. Plaintiffs seek recovery for general damages in excess of \$15,000; special damages; exemplary and punitive damages; costs of suit, expenses, and reasonable attorney’s fees; prejudgment and post judgment interest and costs, and further relief deemed just and proper by the Court. Compl. at p. 8, Wherefore Clause.

15. In the Complaint Preface, Plaintiffs allege medical bills totaling over \$600,000 to date as a result of the alleged incident. Compl. at p. 2.

16. The Removing Defendant denies that Plaintiffs are entitled to any relief, but in assessing the amount in controversy, a court must “assume that the allegations of the complaint are true and assume that the jury will return a verdict for the plaintiff on all claims made in the complaint.” *Campbell v. Vitran Exp., Inc.*, 471 Fed. Appx. 646, 648 (9th Cir. 2012) (citation omitted). The amount in controversy also includes attorneys’ fees. *Guglielmino v. McKee Food Corp.*, 506 F.3d 696, 700 (9th Cir. 2007) (“Section 1332(a)’s amount-in-controversy requirement . . . includes attorney’s fees.”).

17. Specifically, Plaintiff Brent Roering seeks several categories of damages based on his injuries for the alleged motorcycle accident including “damages for the injuries he received which greatly impaired his health, strength, and activity, and caused him great mental, conscious physical, and nervous pain and suffering, in the past and in the future, and shock to his nervous system, damaged earning capacity, loss of wages, loss of enjoyment of life, mental pain and anguish in the past and in the future, impairment and disfigurement, plus reasonable and necessary medical expenses in the past and in the future.” *See* Compl. at ¶ 33.

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1 18. Plaintiff Shelly Roering seeks “damages for mental anguish, loss of consortium, and
2 all other personal damages she has incurred as a result of the injures to her husband Brent.” *See*
3 Compl. at ¶ 34.

4 19. Additionally, both Plaintiffs seek punitive damages against the Removing
5 Defendant. *See* Compl. at ¶ 35.

6 20. Given the nature of the injuries allegedly caused and the damages allegedly
7 sustained, it is apparent from the Complaint that the amount in controversy exceeds the sum or
8 value of \$75,000.

9 21. This case satisfies the amount in controversy requirement for purposes of diversity
10 jurisdiction because Plaintiffs seek damages in excess of \$75,000, exclusive of interest and costs.
11 28 U.S.C. § 1332(a).

12 **V. CONCLUSION**

13 22. This case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441,
14 and 1446.

15 23. By filing a Notice of Removal in this matter, the Removing Defendant does not
16 waive its rights to object to jurisdiction over the person, venue, and the expiration of the applicable
17 statute of limitations, and specifically reserves the right to assert any other defenses and/or
18 objections to which they may be entitled as a matter of law or equity.

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1 WHEREFORE, Harley-Davidson Motor Company Group, LLC, respectfully requests that
2 the above captioned action now pending in the First Judicial District Court, in and for Carson City,
3 Nevada, be removed to the United States District Court for the District of Nevada, and that the
4 United States District Court assume jurisdiction over this action and enter such further orders as
5 may be necessary to accomplish the requested removal.

6 DATED this 12th day of December, 2022.

7 Respectfully submitted,

8 **EVANS FEARS & SCHUTTERT LLP**

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10 By: /s/ Jay J. Schutttert

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19 *Attorneys for Defendant Harley-Davidson*
20 *Motor Company Group LLC*
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT HARLEY-DAVIDSON MOTOR COMPANY GROUP, LLC'S PETITION FOR REMOVAL** was served on counsel of record this 12th day of December, 2022 using the Court's CM/ECF System.

/s/ Faith Radford

An Employee of Evans Fears & Schuttart LLP